

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FOREST LABORATORIES, INC.. :
: Plaintiff, : Index No. 07 CV 7399
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: :
- against - :
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: :
LEIF NISSEN, :
: :
: :
: Defendant. :
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PLAINTIFF'S RULE 65(b) ATTORNEY CERTIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

I CHRISTOPHER SERBAGI, an attorney duly licensed to practice law before this Court, declares the following facts under penalty of perjury:

1. I represent the Plaintiff Forest Laboratories, Inc. ("Forest") in the above-captioned matter and am fully familiar with the facts set forth herein. I submit this Rule 65(b) Attorney Certification in support of Plaintiff's application for an temporary restraining order and preliminary injunction.

Background Facts

2. By way of brief background, Forest is a New York based pharmaceutical company that produces and markets drugs that treat a variety of conditions. Forest has well-established franchises in therapeutic areas of the central nervous system, cardiovascular, and respiratory systems. Forest's blockbuster product is the anti-depressant drug LEXAPRO. LEXAPRO has been prescribed for more than 15 million

adults in the United States for the treatment of depression and generalized anxiety disorder ("GAD") in adults.

3. The basis for Forest's request for emergency and temporary injunctive relief is that Defendant is a cybersquatter who (i) is causing actual confusion in the marketplace by leasing the domain name "lexipro.com" to pay-per-click sites who direct consumers who are interested in Forest's LEXAPRO product to rogue on-line pharmacies who are selling dangerous and unauthorized drugs bearing the name LEXAPRO throughout the United States and the World and (ii) has threatened in writing to transfer the domain name "lexipro.com" to owners of pornographic web sites abroad (outside of the jurisdiction of U.S. courts) unless Forest capitulates to his extortion.

4. On August 20, 2007, Forest moved for a temporary restraining order and preliminary injunction by Order to Show Cause. Forest did not notify the Defendant of its *ex parte* application because of his promise to sell the domain name "lexipro.com" to foreign pornographic entities who would be outside the jurisdiction of this Court. Based on Defendant's threats, Forest feared that Defendant would transfer or sell the infringing domain name "lexipro.com" before the Court had a chance to temporarily restrain Defendant.

5. On August 20, 2007, the Court Ordered that the parties appear for a hearing before the Court on August 21, 2007 at 12:30 pm. The Court also Ordered that I (i) serve Defendant with the Summons, Complaint, and the supporting order to show cause papers by electronic communication and (ii) notify the Defendant of the August 21, 2007 hearing; and (iii) file a Rule 56(b) Certification on August 21, 2007, attesting to my efforts to provide Defendant notice of this action.

Plaintiff's Compliance With F.R.C.P. 56(b)

6. Pursuant to the Court's Order, on August 20, 2007, I served the Defendant via electronic communication with the Summons, Complaint, and the same supporting order to show cause papers that I filed with the Court that same day. I also provided Defendant notice of the August 21, 2007 hearing and provided him the Court's telephone number so that he could attend the hearing via teleconference, rather than to attend in person.

7. On August 20, 2007, the Defendant sent me an electronic communication and stated that he would call the Court at 12:30 pm and would attend the hearing by telephone.

Dated: August 20, 2007
New York, New York


CHRISTOPHER SERBAGI